

SUBJECT: Suspending certain handgun laws during a state of disaster

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 6 ayes — Nevárez, Paul, Burns, Clardy, Lang, Tinderholt

3 nays — Calanni, Goodwin, Israel

WITNESSES: For — Rachel Malone, Gun Owners of America; Tara Mica, National Rifle Association; CJ Grisham, Open Carry Texas; Walter West, Republican Party of Texas; Alice Tripp, Texas State Rifle Association; Brad Hodges; (*Registered, but did not testify*: Eric Carcerano, Chambers County District Attorney's Office; Quint Balkcom, Game Warden Peace Officer's Association; Justin Delosh, Lone Star Gun Rights; Mark Dorazio, Terri Leo Wilson, and Tanya Robertson, Republican Party of Texas; Stephanie Collinson Cooper; Jill Glover; Thomas Parkinson; Gregory Switzer; Chris Woolsey)

Against — Steve Wohleb, Texas Hospital Association; (*Registered, but did not testify*: Karen Kelley, League of Women Voters of Texas; Emma Thomson, Texas Gun Sense; Joseph Longhurst)

On — (*Registered, but did not testify*: Amy Hedtke; Lynette Lucas)

BACKGROUND: Under Penal Code sec. 46.02, it is a crime for a person to carry a weapon, including a handgun, if not on the person's own premises or inside of or directly in route to the person's motor vehicle or watercraft. It also is a crime for a person to have a handgun in plain view in a motor vehicle or watercraft unless the person was licensed to carry a handgun and carried it in a shoulder or belt holster. An offense under this section is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Sec. 46.03 makes it a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) for a person to possess a firearm on certain prohibited premises, including a school or educational institution, polling place, government court, or racetrack.

Sec. 46.035 creates offenses for carrying a handgun by a license holder on certain premises under certain conditions, including in plain view in a public place, at an institution of higher education where it is prohibited, at a business that derives at least 51 percent of its income from alcohol sales, at a hospital or nursing facility, in an amusement park, or at a place of worship. An offense under this section is a class A misdemeanor, except if it occurred at a business deriving income from alcohol sales, it is a third-degree felony.

DIGEST: HB 1177 would revise the application of certain handgun laws in a declared state of disaster.

The offense of unlawfully carrying a weapon under Penal Code sec. 46.02 would not apply to a person carrying a handgun if:

- the person carried the handgun while evacuating from an area subject to a mandatory evacuation order during a declared state of disaster or local state of disaster or while reentering that area following the person's evacuation;
- not more than 168 hours had elapsed since the evacuation was ordered or since it was issued and the governor had extended the period during which a person could carry a handgun; and
- the person was not prohibited by state or federal law from possessing a firearm.

The offenses under Penal Code sec. 46.02 and certain provisions of secs. 46.03 and 46.035 would not apply to a person who carried a handgun if:

- the person carried the handgun on an otherwise prohibited premises that was operating as an emergency shelter during a declared state of disaster or local state of disaster;
- the person was authorized to carry the handgun by the owner, controller, or operator of the premises; and
- the person was not prohibited by state or federal law from possessing a firearm.

The bill would take effect September 1, 2019, and would apply only to an offense committed on or after that date.

SUPPORTERS
SAY:

HB 1177 would provide clarity for lawful gun owners evacuating during a state of disaster. Current law does not address individuals who evacuate with legally owned handguns by means other than their personal vehicles or to an emergency shelter. Texans should have the ability to take certain firearms with them in a mandatory evacuation without fear of breaking the law or being forced to leave handguns behind in vehicles or homes, where they could be at risk from looters.

Because the bill would allow shelter operators to decide whether to allow citizens to bring their handguns into the premises or not, property owners' rights would be protected. The bill would not set specific requirements for shelter operators but instead would provide them with the flexibility to set their own conditions for safe gun storage and to inform the local community in a way that best fits its needs. The bill author also intends to offer a floor amendment that would ensure that a person carrying a handgun complied with any rules and regulations set by the shelter operator.

OPPONENTS
SAY:

HB 1177 would place an additional burden on first responders and shelter operators during an already stressful period of disaster response. The bill would allow a person to carry a handgun into an otherwise prohibited place if it was operating as a shelter following a disaster, a time when evacuees would be experiencing emotional distress. This could present a public safety concern.

Because HB 1177 would not establish a standardized way for shelter operators to notify evacuees of whether or not handguns were authorized on the premises and of any requirements for safe gun storage, the bill would inappropriately give individuals the discretion to set aside existing law without clear rules or guidelines.

OTHER
OPPONENTS

HB 1177 should include a provision that the bill would be in effect for the entire time a state of disaster was in place, rather than only during the first

SAY: seven days. A state of disaster often lasts longer than a week, and the bill should cover the entire duration of a state of disaster without having to depend on the governor to extend the time period during which it would be effective. This would reduce ambiguity and better protect lawful gun owners from excessive penalties.

NOTES: The bill author intends to offer a floor amendment to require a person carrying a handgun to comply with any rules and regulations of the owner, controller, or operator of the premises that governed the carrying of the handgun. The amendment also would remove a hospital or a nursing facility as a place where a license holder could carry a handgun if other bill conditions were met.